

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 4837 of 2006

DATED: 11.10.2006

Between:

K.Tirupataiah

petitioner

And

APSRTC,

Rep by its Chairman & Managing Director

Musheerabad, Hyderabad & another Respondents

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THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 4837 OF 2006

ORAL ORDER:

The present writ petition is filed questioning the proceedings of the second respondent dated 26.10.2004 informing the petitioner that the post of conductor/cleaner will be filled up by direct recruitment through paper notification and that there is ban on clerical posts and advising the petitioner to apply for the posts of conductor/cleaner whenever a notification is issued.

The father of the petitioner retired from the service of the respondent corporation as Depot Clerk on attaining the age of superannuation on 30.4.1997. The case of the petitioner is that his father after completion of 25 years of service, submitted an application dated 16.4.1992 to provide employment to him in terms of the circular instructions of the corporation. The petitioner was interviewed on 15.5.1992, however the results were not declared. Questioning the action of the respondents in not communicating the results of the interviews, the petitioner earlier filed W.P. No. 4882 of 1998 and the same was disposed of by an order dated 13.8.2004 directing the respondent corporation to consider the case of the petitioner in accordance with law, as and when there is any vacancy for the post for which he has made an application. Thereafter, second respondent issued impugned order dated 26.10.2004, informing the petitioner that

posts of Conductor/Cleaner (shramik) will be filled by direct recruitment through paper notification and whenever such a notification is issued he may apply for the same. Hence the present writ petition.

Learned counsel for petitioner submitted that the petitioner is a graduate and also possess the qualification of ITI Civil and is entitled to the post of Conductor/Cleaner and the action of the second respondent in not considering his case for appointment under in-service employees quota and advising to apply for the post of conductor/cleaner as and when a notification is issued for direct recruitment is illegal.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent-corporation.

In the present case, the petitioner seeks employment on the ground that his father has served the respondent organisation for more than 25 years and as such he is entitled to appointment under the quota of in service employees. The petitioner further contends that he was not paid the compensation amount in lieu of employment as prescribed under “bread winner scheme”. The petitioner has not established as to how he is entitled to the benefits under “bread winner scheme” inasmuch as his father retired from service of the corporation on attaining the age of superannuation and the “bread winner scheme” is introduced to provide employment on compassionate grounds. The petitioner merely claims that he is entitled to employment under in-service employees quota. A similar issue was considered by Division Bench of this Court in **Shaik Ahmad Ali Shah and another Vs. The Divisional Manager, APSRTC, Kakinada and another**^[1], wherein it is held that “hereditary appointment has no place in public employment”. The relevant portion reads as under:

“.....whatever may be the cause, the

practice is liable to be condemned as unconstitutional and retrograde. Hereditary appointment has no place in public employment. If this practice were to continue, the establishment of the APSRTC, in course of time, would have emerged as a “closed shop” consisting only or mainly of the descendents of the serving or retired or deceased employees of the corporation. This scheme, whether it is planned or innocent, should be thwarted to uphold the republican character of the constitution. It is a matter of satisfaction that the corporation has realised its mistake though latterly and disbanded the unconstitutional circular in 1995.”

It is pertinent to note here that the Apex Court in **Umesh Kumar Nagpal v. State of Haryana and others**^[2] held that as a rule public service appointment should be made strictly on the basis of open invitation of applications and merit.

For the foregoing reasons, the impugned proceedings dated 26.10.2004 cannot be said to be illegal warranting interference of this Court. The writ petition fails and accordingly the same is dismissed. No costs.

N.V.RAMANA,J

DATE: 11.10.2006

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THE HON'BLE MR JUSTICE N.V. RAMANA

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[2] 1994 (4) SCC 138